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AUTHOR Medrani, Emelda
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ABSTRACT

This memorandum discusses the need for civics and English-as-a-Second-Language (ESL) instruction as a result of the Immigration Reform and Control Act (IRCA) of 1986. IRCA provides an opportunity for illegal aliens to obtain legal resident status by successfully completing a test of English proficiency and a test of U.S. history and government, or by attending approved English and civics courses. The memorandum is designed: (1) to inform community groups about the situation of IRCA-generated demand for ESL/civics courses and to give recommendations to policymakers regarding needed action; and (2) to assess the policy implications of recent developments and provide recommendations to state, local, and federal policymakers. Immediate, firm policy intervention is recommended to avoid a potential supply/demand crisis that may undermine the progress achieved with the first (application) stage of legalization. An introductory section provides background information on the legislation process and its target audience, describing the Immigration and Naturalization Service interview procedure, the standardized tests used, and the ESL/civics course requirement. The supply/demand situation for the courses is then examined in some detail, and community organization participation and policy recommendations are addressed. Appended materials include timelines and data concerning application for the legalization program, and notes on exemptions from the ESL/civics courses. (MSE)

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NATIONAL COUNCIL OF LA RAZA
Raul Yzaguirre, President

National Office
810 First Street, N.E.
Suite 300
Washington, D.C. 20002
(202) 289-1380

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MEMORANDUM

TO : Interested Parties
FROM : The National Council of La Raza*
DATE : March 1989
SUBJ : **The Missing Link: Community-based Organization Participation in ESL/Civics Classes**

I. OVERVIEW

A. Purposes of the Memorandum

The Immigration Reform and Control Act (IRCA) of 1986 provided an opportunity for more than 1.7 million undocumented persons to apply for legal status; the application period for the "first stage" of that program ended on May 4, 1988. Those who successfully completed the first stage of that program are now required to pass through the "second stage" of legalization, which will require most applicants to either pass a proficiency test in English and the history and government of the United States, or to attend certain approved courses to obtain such knowledge. This memo is based on the interim final regulations for the second stage, issued by the Immigration and Naturalization Service (INS) on October 31, 1988.

This memorandum serves two purposes. First, it is designed to inform community groups about the situation of IRCA-generated demand for ESL/civics courses and to give recommendations to policy makers regarding action that should be taken on this issue. The memo gives community-based organizations (CBOs) an opportunity to assess the supply of and demand for ESL/civics courses, so that they can determine the need for and benefits of participating in the second stage of legalization.

Second, the memorandum assesses the policy implications of recent developments, and provides recommendations to state, local, and federal policy makers. The National Council of La Raza believes that immediate, firm policy intervention is necessary to avoid a potential supply/demand crisis that may undermine the achievements of the first stage of legalization.

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* This memorandum was prepared by Emelda Medrano, Immigration Policy Fellow with the National Council of La Raza's Policy Analysis Center, under the general supervision of Charles Kamasaki, Director of the Center. The memorandum is based in part on a previous, unpublished memorandum by Charles Kamasaki and Denise De La Rosa, Senior Education Policy Fellow, and was edited by Emily G. McKay, a consultant to the Center. Cecilia Munoz, Senior Immigration Policy Analyst, provided comments and suggestions.

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To determine the need for and supply of new ESL classes, the supply situation prior to the passage of IRCA and IRCA-generated demand are analyzed. By understanding the relationship between the available supply of ESL services and IRCA-generated demand, the need for new classes can be estimated.

B. Background: The ESL/Civics Requirement

According to statistics released by the Immigration and Naturalization Service, by August 1988 over 1.7 million undocumented immigrants had applied for temporary residence under the "general" legalization program of the Immigration Reform and Control Act (IRCA) of 1986.(1) Successful completion of the first stage of legalization, however, does not automatically assure eventual legalization as a permanent resident. Persons accepted under the first stage must first complete an 18-month period as temporary residents, then meet certain additional requirements and apply for permanent status during the following 12 months. Legalized persons who fail to successfully adjust their status will revert back to undocumented status at the end of this 30-month period, and will have no opportunity to become legal residents under IRCA (See Appendix A).

To adjust to permanent resident status, all newly legalized immigrants must fulfill several second-stage legalization requirements. They must demonstrate that they have continuously resided in the United States since before January 1, 1982; are otherwise admissible as immigrants; and show a "minimal understanding of the language and history of the United States" or be "satisfactorily pursuing" a course of study providing English-as-a-Second-Language (ESL) and civics that is recognized by the Attorney General. Although some applicants have not yet received decisions on their applications, about 95% of the applicants are expected to be given temporary resident status.

Some temporary residents are exempted from fulfilling the language and civics requirements. Exempted individuals include persons under 16 and over 65 years of age, those who have attended school at least one year at an accredited learning institution in the United States, persons who have a high school diploma or the equivalent from a school or program in the United States; and those who will be 50 years old or older in 1989 and have resided in the U.S. for at least 20 years. In addition, persons who are physically or mentally disabled may be exempted at the discretion of the local INS District Director.(2)

Applicants for permanent resident status can satisfy the basic citizenship skills requirement in several ways: by passing an interview administered by the INS, by passing a standardized test, or by showing that they are "satisfactorily pursuing" knowledge required by the test through an ESL/civics course.

1. INS Interview

The interim regulations state that the applicant's English ability and understanding of civics shall be determined from answers to questions normally asked during the course of the interview:

> An applicant's ability to read and write English shall be tested by excerpts from one or more parts of the Federal Textbooks on Citizenship at the elementary literacy level. The test of an applicant's knowledge and understanding of the history and form of government of the United States shall be given in the

> English language...the test questions shall be selected from a list of 100 standardized questions developed by the Service.(3)

The interim regulations provide that applicants unable to pass the INS examination on the first attempt will have a second opportunity to do so. By successfully completing this oral interview and written examination, an applicant will be exempt from the test requirement when applying for citizenship.

2. Standardized Test

The INS has accepted proposals from professional testing institutions that are developing and will implement standardized alternative tests for legalization purposes. Only the names of applicants who pass the test will be forwarded to the INS.

a. Educational Testing Service (ETS) - a 20 question multiple choice exam with a writing component fulfills citizenship test requirements.

b. Competitive Adult Student Assessment System (CASAS) - a multiple choice examination which uses a video screen to ask questions. There is no writing component and it does not fulfill citizenship test requirements. This test is available in the Western region and will expand to other regions later in the year.

3. ESL/Civics Course

Applicants who feel that they may be unable to pass an interview or a test or choose not to be tested may, as provided by the statute, demonstrate that they are "satisfactorily pursuing" such knowledge in a "course of study recognized by the Attorney General." According to the interim regulations, "satisfactorily pursuing" means that an applicant:

> ...has attended a recognized program for at least 40 hours of a minimum 60-hour course as appropriate for his or her ability level, and is demonstrating progress according to the performance standards of the English/citizenship course prescribed by the recognized program in which he or she is enrolled.(4)

In order to be "recognized" by the Attorney General, courses must be administered by:

- State or local school districts;
- Other public or private institutions certified by state education agencies;
- Public or private institutions approved to issue I-20 Forms (used to document attendance by foreign students);
- Qualified Designated Entities (QDEs);

- Organizations certified by the INS District Director in whose jurisdiction the course is conducted, or by the Outreach Division of the INS Central Office.(5)

II. ESL/CIVICS COURSES: ESTIMATING SUPPLY AND DEMAND

A. Background

The second stage of legalization will create greatly increased demand for ESL/civics classes at a time when current courses in many locations are already inadequate to meet existing demand. Even if there was no legalization program, immigrants in the U.S. under the existing immigration preference system who want to change their permanent resident or refugee status to that of citizen need to meet language and civics requirements similar to those specified under IRCA. Legal immigration has been increasing modestly but steadily in recent years, thus increasing the demand for ESL/civics courses. In addition, the increasing need for literacy skills to succeed in the job market has led native-born Americans and long-time residents with limited education to enter such courses in growing numbers.

The demand for existing ESL courses has been widely documented. In 1986, New York students were turned away from ESL classes due to lack of space.(6) In Los Angeles, approximately 40,000 adults were turned away from ESL classes in the 1986-1987 school year.(7) In a 1986 study of 12 affiliated Educational Service Centers, the League of United Latin American Citizens (LULAC) found that additional ESL classes were needed in the states of Texas, California, Colorado, New Mexico, Washington, Illinois, Missouri, Kansas, Pennsylvania, Florida and Connecticut.(8)

In 1987, the Center for Applied Linguistics conducted a survey of adult ESL instruction in eight major cities (Boston, Chicago, Houston, Los Angeles, Miami, New York, San Francisco and Washington, D.C.) with large populations of Hispanics and limited-English-proficient persons. The survey concluded that even though the number of programs and financial resources for Adult Education have increased recently, the demand for courses has not been met. The report found that "additional funding is necessary to provide good quality instruction for the millions of ESL students needing English."(9)

B. Estimated Demand due to Legalization

Legalization will dramatically increase ESL demand over the next two years. As newly legalized persons complete their 18 months of temporary residence, they will need to meet the ESL/civics demand within an additional 12-month period. The 12-month period will begin for the earliest legalization applicants in November of 1988, and end for the latest applicants in November of 1990. The period between these dates is the time frame during which all legalization applicants must fulfill their ESL/civics requirement (See Appendix A). If eligible legalization applicants are to meet the ESL/civics requirement, they must have access to courses during this period. Ensuring such access requires determining the probable extra demand for classes created by legalization and comparing it with the current supply of such classes; only then can an estimate of the number of new classes and "slots" for ESL/civics training be developed and organized efforts be made to meet this demand.(10)

1. Demand Estimates

An educated estimate of the potential IRCA-generated demand for ESL/civics courses can be reached by evaluating applicant characteristics relevant to determining the number of newly legalized persons likely to seek a "Certificate of Satisfactory Pursuit." The first step in assuring that all legalization applicants have access to ESL/civics classes is to determine how many applicants will require such classes. The need can be determined by first estimating how many applicants there will be; then estimating the number who will be required to meet the requirement, by eliminating those exempted for various reasons; and finally estimating the number who can pass the interview or test without classes, and subtracting them to get a net number of persons who are likely to need classes.

FIGURE 1
ESTIMATED POTENTIAL NATIONAL DEMAND FOR ESL/CIVICS CLASSES

Category	Number
Total legalization applicants as of August 1988	1,762,134
Estimated number of applicants obtaining first-stage legalization (95%)	1,674,027
Persons under 16 or over 65 years of age (12%)	- 200,883
	1,473,144
Persons 50+ in 1989 and have lived in the U.S. for 20+ years, (Approx. 9% - See Appendix B)	- 132,583
	1,340,561
Persons who have completed at least one year of education in the U.S. (Approx. 10% - See Appendix B)	- 134,056
Estimated Number of Persons who must meet the ESL/civics requirement (Approx. 68% of all applicants)	1,206,505
Persons from English-speaking countries (6%)	- 72,390
	1,134,115
Professionals and students (14%)	- 158,776
TOTAL ESL/CIVICS DEMAND (Approx. 55% of all applicants)	**975,339**

Source: NCLR calculations from August 1988 INS statistics using LOSS and LAPS figures (See Endnote No. 1).

The potential demand is based on the assumption that 95% of the total number of legalization applicants will successfully legalize at the first stage. Then it is necessary to subtract people who are exempted from the ESL/civics requirement by the INS guidelines, including all of the following categories: persons who are under 16 or over 65 years of age at the time of their interview (approximately 12% or 200,883); persons who are over 50 years of age and have lived in the United States for over 20 years (approximately 9% or 132,583); and those persons who have completed at least one year of school in the U.S. (10% or 134,056) (See Appendix B for detailed information). The remainder are the number of people who **must** satisfy the ESL/civics requirement.

This number can be reduced further by subtracting the people who may already know English. The American Bar Association has calculated that 6% of legalization applicants come from countries where English is spoken. Subtracting this estimated 6% or 72,390 reduces the total to 1,134,115. Finally, subtracting all professionals and students, who are likely to be literate in English (158,776), produces a total of 975,339 people that are non-English-speaking, non-professional, non-student, legalized persons who may need ESL and civics courses.

By including all the relevant factors pertaining to the population that requires ESL/civics instruction, it is estimated that the minimum demand for ESL/civics instruction requires approximately 975,339 new course slots.

By considering the total number of people who must meet the ESL/civics requirement and the minimum number of people who are likely to need ESL/civics, a range can be established which provides a rough estimate of the ESL/civics need in individual states. Between 55% and 68% of the legalization population will seek ESL/civics instruction, the potential demand for classes in California is between 504,421 and 623,648; in Texas between 164,222 and 203,038; in New York between 63,223 and 78,166; in Illinois 61,394 and 75,905; and in Florida between 25,028 and 30,943.(11)

2. Limitations of the Estimates

In calculating the estimate of ESL/civics demand, we acknowledge certain limitations. The number of persons from non-English-speaking countries who can speak, read and write English sufficiently to satisfy the INS requirement may exceed the estimate in Figure 1. The estimates provided here assume that virtually all legalization applicants from non-English-speaking countries who are not exempted from the language and civics requirement, except those identified as professionals or students, will require classes. Since some individuals from such countries may well have learned English before coming to the U.S. or since arriving, this assumption may contribute to an overestimate of demand for classes.

In addition, the rough methods used to estimate the number of persons who might be exempt from the ESL/civics requirement may be understated. The number of persons who may have completed at least one academic year of school in the United States, in particular, may be substantially higher than estimated here. Any under-estimates of this nature would tend to overstate the demand for ESL/civics classes.

On the other hand, the actual demand may be underestimated in several ways. First, the English-speaking, professional, and student categories may overlap, i.e., many of the persons from English-speaking countries may be either students or professionals. This would tend to underestimate the net demand for ESL generated by IRCA. Second, many persons who speak and/or write English well may lack -- or perceive that they lack -- sufficient knowledge and understanding of the history and government of the United States to meet IRCA requirements. Thus, they are likely to seek instruction in civics, even if they do not need English-language training. Similarly, some number of persons from countries where English is spoken may not themselves speak, read or write English very well. These factors would also lead to an underestimate of IRCA-generated demand.

Another source of underestimation not considered by the calculations presented here is the probable use of ESL/civics courses by Special Agricultural Workers (SAWs) applicants, who are not required to meet ESL/civics requirements. Many SAWs are either already in classes or have expressed the desire to enroll, which complicates the supply/demand estimates. Their presence in the classrooms that are specifically designed for applicants that need them to qualify for legalization reduces the available supply of ESL/civics slots.

In addition, many newly legalized persons are likely to attend classes past the 40-hour minimum.(12) If these students continue their education through the ESL/civics courses of the legalization program, they will in effect be using some of the slots that are included in the estimation of required supply. Again, this phenomenon would reduce the number of slots available for persons who need classes to meet second-stage legalization requirements.

Despite these limitations, the estimates appear to be, at a minimum, of the correct order of magnitude and are reasonably consistent with other studies that apparently utilized other methodologies. For example, the Refugee Policy Group, in a study for the American Public Welfare Association, estimated in July 1988 that perhaps 70% of the newly legalized population would require certificates of satisfactory pursuit.(13) Given the fact that many of the regulatory exemptions had not yet been announced prior to the Refugee Policy Group's study, the estimates provided by The Council here are remarkably similar to those cited in the study.

The State of California, in its application for State Legalization Impact Assistance Grants (SLIAG) in August 1988, estimated that 794,003 persons would need to be accommodated through SLIAG-funded courses.(14) This is consistent with the estimate for this state cited above of 504,421 to 623,648.

C. Estimated Supply

In determining the supply of ESL/civics courses and the number of slots that are available to the newly legalized residents, it is first necessary to assess the number of programs that were available prior to the passage of IRCA. The ESL/civics requirements of IRCA will put an additional strain on the existing capacity. The shortfall between supply and demand -- the need for additional classes -- can be estimated by comparing existing course capacity with IRCA-generated demand.

There are many uncertainties in attempting to estimate the actual "supply" of funded ESL classes. The vast majority of ESL courses in the U.S. are funded through the Adult Education Act. Some states and localities supplement federal funds with additional resources; classes funded through non-federal resources may or may not be included in the federal data. In addition, several community-based groups and other institutions provide combined ESL/civics classes targeted primarily to persons seeking to apply for citizenship. These supplemental funds probably provide several tens of thousands of additional ESL slots.

The National Council of La Raza estimates the total supply of Level 1 ESL slots to be about 1.6 million -- based on data from the Department of Education -- with perhaps an additional 50,000 in non-federal and combined ESL/civics course slots. These are rather generous estimates of supply and are based on free or low-cost programs. Keeping in mind that all existing courses are filled to

capacity, and comparing this with our estimated IRCA-generated demand of 975,000, we estimate that meeting second-stage demand would require the existing ESL system to increase its capacity by at least 60% over the next two years. By comparison, recent unprecedented levels of growth have been only 18% nationally and about 32% in California.(15)

Even if the number of ESL slots were to increase by over 60% in the next year, this would probably be insufficient, especially in areas with large numbers of legalization applicants, since there is never a perfect match between course supply and demand. In order for the supply to be sufficient, there need to be enough classes, in the right geographical areas and neighborhoods, offered on the right schedules and at an affordable cost to the target population. Even if all of these conditions were met, each class would have to be filled to capacity, with optimum timing, i.e. legalized persons would have to complete their courses before their application period expires (See Appendix A).

Assuming that these speculative estimates are close to being accurate, the capacity of the current ESL/civics delivery system will be severely tested. Not only will more spaces be needed, but since many ESL classes do not currently include a civics component, civics will need to be added to existing ESL classes so that they can be used to serve legalization applicants.

D. Imbalance Between Demand and Supply

There are two principal components to the imbalance of supply and demand. Legalization-generated demand is taking place at a time when ESL courses have been expanding rapidly nationwide, and particularly in areas with large concentrations of newly-legalized persons. Additional increments of growth may be difficult due to shortages of teachers or classroom space, difficulties in outreach or scheduling, etc.

Even without legalization, the demand for ESL and citizenship classes would have been expected to increase, due to rising legal immigration and the growing need for English proficiency and literacy to compete in the job market. Non-legalized persons currently enrolled in, or who intend to enroll in, ESL or citizenship courses are likely to continue to fill existing and perhaps many new ESL/citizenship slots. Therefore, we believe that supply would have to increase by more than 60% to accommodate all of the legalization-generated demand.

III. COMMUNITY-BASED ORGANIZATION PARTICIPATION

A. Overview

School systems may find it difficult to further expand their ESL course capacity because recent expansion has exhausted their ability to provide teachers and facilities; as a result, voluntary organizations are the sector most likely to have the capacity and flexibility for rapid initiation or expansion of ESL/civics classes needed for second-stage legalization. Community groups, especially those which have served as QDEs or assisted in first-stage legalization, and those which serve the newly legalized population, also have a special commitment to assisting this group.

By providing ESL/civics classes, a CBO can provide an invaluable service to the community by maximizing the number of applicants who will obtain permanent residence. These same people will most likely continue to need services available at CBO offices (such as citizenship classes and other social services).

B. Benefits of CBO Sponsorship of Recognized Courses

ESL/citizenship classes are clearly a growth industry. Even without a legalization program, rising legal immigration and the increasing need for literacy skills to succeed in the marketplace are generating growing demand for ESL/civics classes. Legalization not only creates immediate demand for ESL/civics classes, but also five years from now, when many temporary residents will be eligible for citizenship, there will be another significant "bulge" in demand (See Appendix A, Figure 3). Providing a "recognized" course now will help the CBO to establish a base for building a permanent ESL/citizenship program.

Not only are ESL/civics classes relatively easy to administer, but they can also become self-sufficient over time. These classes can be administered with relatively low overhead, and are a cost-effective way of delivering essential services. In addition, experience demonstrates that much of the limited-English-proficient population is willing to pay fees for services, which are often nearly enough to offset the costs of the program.

Because of the high demand for ESL/civics courses, we strongly encourage all CBOs to investigate the possibility of becoming providers. By establishing ESL/civics courses, CBOs would not only be providing an important service in the short-term, but would also gain from longer-term benefits as well, including an enlarged client base and establishment of strong bonds between the newly-legalized and the CBO.

Providing a new service can help the agency identify and establish relationships with new funding sources and other important institutions (for example, other community groups, the INS, local school districts and state education departments), that could significantly benefit the CBO in the long term. The most important reason for establishing a class is to serve the client; however, there are major benefits to the individual CBO that should be taken into consideration.

C. Other Ways to Participate

While all CBOs may not be in a position to establish a "recognized" course at the present time, there are still many important constructive ways that it can assist in making legalization's second stage a success, including, but not limited to:

- Entering into contracts with school districts or other recognized courses to provide outreach, intake or other services. CBOs can also provide space for classes in the community; these classes might be administered by the school district, but "outstationed" at the CBO site.

- Maintaining lists of "recognized" courses for referral purposes. Information about required fees and course schedules could also be provided to clients seeking

referrals. In addition, CBOs may want to monitor the performance of existing recognized courses in their area and warn clients about ineffective or unusually expensive courses.

- Working with local INS offices to develop local mailings which clarify the second stage requirements and include information on how and where they can be fulfilled.

- Planning to establish a "recognized" course in the future." The demand for classes will not end until November 1990. In the interim, circumstances may change, i.e., existing classes may be overburdened or some current providers may go out of existence; a previously reluctant funding source may become more interested, especially if -- as the Council predicts -- there is insufficient capacity to meet the demand; or the programs' rules may change, making it easier to provide classes. In any event, the fact that a CBO may not be able to immediately establish a "recognized" course now should not and does not prevent such groups from starting a course at a later date.

IV. POLICY ISSUES AND RECOMMENDATIONS

A. Overview

Making sure that all legalization applicants have access to ESL/civics classes requires a coordinated effort by the INS, state governments, and community-based organizations. Policy considerations need careful review and effective implementation by policy makers and advocates.

The INS is charged with setting the standards for "recognized" courses, informing temporary residents of how to meet their obligations, and otherwise establishing and implementing the regulations governing the second stage of legalization. State governments control the distribution of State Legalization Impact Assistance Grants (SLIAG) -- virtually the only source of funding for "recognized" courses. School districts, community groups, and other potential providers of ESL/civics classes have the responsibility of designing and administering courses. Advocacy groups -- at both the national and local levels -- can play an important role by monitoring the process, identifying problems, and helping implement solutions. Ideally, implementation of the second stage would occur in a well-planned and coordinated fashion. Such coordination, however, is unlikely, given the number of different actors and the time constraints involved.

In the absence of a planned, coordinated approach -- and given the likelihood of severe shortages of ESL/civics slots -- it is imperative that all entities involved in the second-stage act in ways that maximize the availability of classes for temporary residents. Not only does this require the establishment of a sufficient number of courses, but it also requires that applicants have access to the classes and the time to complete them.

Selected policies that do not serve the goal of maximizing the number, access to, and time available to complete ESL/civics courses are identified and analyzed below, along with recommendations for addressing each policy issue.

B. Standards for Certificates of Satisfactory Pursuit

The Immigration and Naturalization Service's role in the ESL/civics requirement is to set regulations, conduct interviews, and inform applicants of ESL/civics requirements. One set of policy issues deals with the regulations regarding classes. The INS requires an applicant to attend 40 hours of a minimum 60-hour course in order to obtain a Certificate of Satisfactory Pursuit. Many observers believe that the 40-hour requirement is too strict. Some advocates believe that the legislative history of this provision supports the interpretation that simple enrollment in a "recognized course" can demonstrate satisfactory pursuit, while others believe that bona fide attempts to enroll should satisfy the "satisfactorily pursuing" language in the regulations.

Others oppose the requirement on policy grounds. "If there is a shortage of "recognized" courses, than many newly legalized persons may lose their opportunity to adjust to permanent residence; thus while those who were able to enroll in courses will have received substantial educational benefits, those left out will revert back to undocumented status. Lengthier courses, which have the effect of reducing the number of available ESL/civics slots for any given level of capacity, increase the danger of leaving out large numbers of the newly legalized." (16)

Other observers, however, take the opposite view. They argue, on educational policy grounds, that a 60-hour course is insufficient to teach students both ESL and civics. Most of those who advocate this position are educational professionals, notably officials of the Los Angeles Unified School District, who have indicated that they do not intend to teach "green card English." (17)

Still others argue that the requirement provides a one-time, unique opportunity for this population to obtain educational training to necessary for citizenship. These advocates support the view that longer courses are desirable; although they acknowledge that such lengthier courses should be an option rather than a strictly mandated requirement.

In addition, while several states and local agencies express a laudable concern for emphasizing the educational portion of the second-stage process, if states establish additional requirements for ESL/civics programs which exceed the INS guidelines, including expanding the number of required hours or instituting a formal examination process to determine "satisfactory pursuit," there will be a danger of excluding many potential applicants. While there is general agreement that it is important to ensure that all applicants have a meaningful and substantive educational experience, the most important short-term goal of the class is to enable applicants to achieve their legalization goals expeditiously. Placing additional burdens on applicants could not only jeopardize their legal status, but also discourage them from continuing their studies after becoming permanent residents because they will be dissatisfied with their educational experience. Course providers should balance educational objectives with the principal objective of facilitating adjustment to permanent residence within the 30-month period.

C. **Timing Issues**

A number of timing issues complicate the second-stage process. First, the INS interim final regulations were issued on October 31, 1988, only eight days before the program was scheduled to begin. This made it difficult for community agencies, state entities, and educational institutions to mobilize their programs to assist the newly legalized.

Another complicating factor is that, according to INS statistics dated October 24, 1988, 31.5% of the total number of applications had not been adjudicated as of that date. Since each applicant's 12-month application period begins 18 months after s/he filed for temporary residence, delays in processing first-stage applications could severely reduce the length of time available for applicants to fulfill the requirements for second stage (See **Appendix A, Figures 1 and 2**).

A further complication is that during several periods of the first-stage application period, there were significantly higher numbers of applicants than in other months. This was true particularly during the third through fifth months and also the final month of the program. This will determine the time periods when there will be very high demands for ESL/civics courses since applicants must complete 18 months as temporary residents and then have an additional 12 months in which to fulfill second stage requirements (See **Appendix A**).

Given these timing factors and the high probability of shortages in ESL/civics classes, there is a strong possibility that a substantial number of eligible applicants will not be able to fulfill the ESL/civics requirement before their application period expires. Though the current INS regulations specify that these requirements must be fulfilled at the time of the second-stage interview, the statute itself does not make this requirement. Advocates are encouraging the INS to consider giving applicants additional time to complete ESL/civics classes, provided they file their actual applications during the required time period. This would be a reasonable method of maximizing the number of temporary residents who successfully adjust to permanent residence.

D. **Outreach to Applicants**

Providing understandable and accurate information to potential applicants was perhaps the greatest single shortcoming of the INS' implementation of the first-stage of legalization.(18) Given the clandestine character of the target population, public education efforts during the first-stage were understandably difficult to design and implement.

The challenge of public information efforts is somewhat different for the second-stage of legalization, in that the INS knows who comprises the applicant pool. The INS has decided that outreach efforts for the second-stage will consist of a series of mailings to newly legalized residents, the first of which has already been sent. Citing cost considerations, INS has rejected proposals to implement media or community-based outreach programs for the second-stage of legalization.

A number of national advocacy groups believe that some methods of outreach in addition to direct mail should be employed. First, given the transient nature of the population, advocates fear that many applicants may have changed addresses

without notifying the INS, and thus may never receive the mailings. Second, the initial mailings have been criticized as being inaccurate and misleading.(19) Third, many advocates believe that other forms of outreach may be essential in order to properly explain the second-stage to the significant proportion of the population that is illiterate or semi-literate. Finally, there does not appear to be any mechanism -- at either the national or district level -- for listing the locations and fees of recognized ESL/civics courses or distributing this information to applicants.

Some state governments and advocacy groups have proposed that SLIAG funds be made available for outreach efforts, although a legislative change would be required to implement this proposal. The implications of ineffective outreach are serious. Even if sufficient numbers of classes are established, applicants may not know where to get classes or may fail to enroll in time to complete the requisite number of hours.

E. State Involvement

The states have faced significant obstacles in developing timely plans and procedures for distribution of SLIAG funds. The publication of SLIAG implementing regulations were delayed several times, thus preventing effective planning. These delays have been compounded by unreasonable and unnecessarily restrictive requirements placed on SLIAG funds by the Department of Health and Human Services. INS' failure to publish second-stage regulations in a timely manner also complicated program planning, especially with respect to developing distribution plans for ESL/civics funding.

There are also inherent difficulties in attempting to utilize "block grants" such as SLIAG to implement a national requirement such as the second-stage of legalization. Block grants have the effect of enabling each state to implement its own set of rules and regulations regarding the allocation of funds. Instead of applying to a Federal program under consistent guidelines, community based organizations now have the responsibility of learning the regulations for their individual states. The discretion allowed to the states in the expenditure of SLIAG funds virtually guaranteed some 50 different planning and funding mechanisms. The results are confusing regulations and slow growth in ESL/civics course offerings.

These difficulties notwithstanding, the performance of the states as a whole with respect to the planning of and funding for sufficient numbers of ESL/civics classes to accommodate IRCA-generated demand has been less than adequate in several respects. First, some states are not allocating sufficient funds to education, due to bureaucratic rivalries and other factors.

Second, even where sufficient funds may be available for education, intra-state rules and regulations have been developed that make it more difficult to provide adequate numbers of classes. One example of this problem is the state of California, which has adopted a funding distribution process that has made community-based organization participation in SLIAG more difficult than was intended.(20) Another effect of the California procedure is that it discourages rather than encourages the establishment of a sufficient number of ESL/civics slots to accommodate the state's own estimate of demand. This occurs because providers are reimbursed according to the number of hours that a student remains enrolled in a class. Due to its structure, California SLIAG encourages course

providers to establish lengthy courses rather than maximizing the number of students that can be legalized by providing shorter course lengths.(21) In addition, California has not allocated sufficient funds towards education; the effect is that people who want to complete their 40-hour course are competing with those who would like to take longer courses. SLIAG funding can and should accomodate both of these objectives.

The failure to provide sufficient numbers of recognized courses would be inconsistent with and undermine the purpose of the legalization program by denying otherwise qualified temporary residents the opportunity to adjust to permanent residence. Such a result would also, in the long term, contravene the states' interests as well. The states' ability to claim SLIAG reimbursement from the federal government depends on being able to document costs attributable to legalized persons. Every temporary resident that fails to adjust to permanent residence is one less person for whom the state will be able to claim SLIAG costs. In the long term, then, it is in every state's interest to allocate sufficient SLIAG funding to education, and to take other steps necessary to maximize the adjustment of its newly-legalized persons to permanent residence.

F. Policy Recommendations

The disparity between the available supply of ESL/civics courses and the IRCA-generated demand requires the establishment of hundreds of thousands of new course slots. All policy alternatives that have the effect of reducing demand or giving applicants a longer "window" in which to complete their second-stage requirements must be considered and implemented where appropriate. In order to address this issue more fully, the National Council of La Raza recommends the consideration of the following policy proposals.

- **The Immigration and Naturalization Service should:**

  - Provide additional alternatives to the ESL/civics courses or additional categories of exemption to minimize demand for scarce ESL/civics course slots.

  - Grant applicants an entire 30-month period or more to fulfill their second stage requirements. This would be achieved by allowing applicants to begin their 30 months upon notification of approval for the first stage of legalization. At the present time, some applicants who applied at the beginning of the program have not had their cases adjudicated for the first stage; in the meantime, their second stage window is closing rapidly.

  - Expand the outreach for second stage. In addition to direct mail programs to immigrants, the INS should fund other methods of outreach. Representatives of the local immigrant community can be used as valuable resources for information to develop more accurate, clear, and concise mailings to applicants. These information packages and application materials should be readily available at legalization offices and community centers.

- **The Congress should:**

  - Consider making SLIAG funds available for outreach. Sates have substantial balances of Fiscal Year 1988 funds available; a small percentage of these funds could easily be allocated to outreach efforts.

  - Oversee the implementation of second stage closely, so that the goals of the legalization program and the achievements of the first stage are not lost.

  - Revise IRCA regulations if a substantial number of people are in danger of losing their status due to inflexible time constraints and the lack of course offerings.

- **Individual States should:**

  - Withdraw rules and regulations that impose standards and testing requirements over and above INS recommendations.

  - Maximize funds that are allocated to ESL/civics courses in order to accommodate the newly legalized in their state. At a minimum, there should be sufficient funds to allow everyone who is eligible to complete the necessary requirements for permanent residence. In addition, it is incumbent on states to provide courses for SAWs and others who want to participate in courses that would increase their proficiency in English, improve literacy skills, and prepare them for naturalization examinations.

  - Encourage community-based organizations to participate in second stage by making educational funds available to them for full and timely reimbursement of their reasonable costs.

ENDNOTES

1. Department of Justice, Immigration and Naturalization Service, "Provisional Legalization Application Statistics, August 25, 1988," Statistical Analysis Branch. Total number of applicants taken from count in Legalization Office Support System data base (LOSS). LOSS includes total number of applicants in all legalization offices. Demographic percentages used in the calculations taken from the Legalization Application Processing System (LAPS). The LAPS data base is smaller then the LOSS data base because of time involved in processing the applications and sending them to be keyed and loaded into LAPS.

   Estimates in this document are based only on the total number of applicants who applied under the pre-1982 provisions of the Act (Form I-687) and do not include any Special Agriculture Worker (SAW) applicants.

2. Federal Register, Department of Justice, Immigration and Naturalization Service, Interim Regulations for the Immigration Reform and COntrol Act of 1986, Vol. 53, No. 210, October 31, 1988, p. 43989.

3. Ibid, p. 43993.

4. Ibid, p. 43992.

5. Ibid, p. 43993.

6. "Adult English Courses Pressed by Immigrants," New York Times, October 13, 1986.

7. "English Courses: Immigrants -- a Rush to the Classrooms," Los Angeles Times, September 24, 1986.

8. The League of United Latin American Citizens, "A Needs Assessment of Adult English Literacy Classes," Washington, D.C., March 1986, unpublished.

9. Center for Applied Linguistics, "A Survey of Adult English as a Second Language (ESL) Instruction in the United States: Reports from Eight Metropolitan Areas," Washington, D.C., 1987.

10. A "slot" is considered to be the actual classroom space that is available per individual student. For example, if a 60 hour class is in session for 10 weeks, an individual space in that program may accommodate 5 people per year (52 weeks in the year divided by 10-week programs = 5 slots per year).

11. Given the national range of between 55 and 68 percent of the total applicant pool who will need ESL/civics classes, state figures can be estimated using this same formula. In California, the total applicant pool was 965,400, Texas, 314,300, New York, 121,000, Illinois, 117,500, and in Florida 47,900. The numbers in the text reflect 55 and 68 percent of these figures which approximates the demand in each state.

12. "Amnesty Applicants Turn to Videotapes as Required English Classes Fill to Limit," Los Angeles Times, December 16, 1988, pps. 1 and 4.

13. Refugee Policy Group, "Serving the Newly Legalized: Their Characteristics and Current Needs," American Public Welfare Association, Washington, DC, July, 1988.

14. State of California, Health and Welfare Agency, State Legalization Impact Assistance Grant Application, pps. 67-68, July 15, 1988.

15. "ESL Enrollment by Region," Division of Adult Education, Department of Education, February, 1988.

16. American Council for Nationalities Service and The National Council of La Raza, "ESL Civics: Planning and Implementing English and Civics Programs, A Handbook," New York, 1988, p. 32.

17. Domingo Rodriguez, Supervisor of Amnesty Preparation and Citizenship Program of the Los Angeles Unified School District, "Second Stage Education Requirements under IRCA," presentation at the American Bar Association Executive Forum, February 26, 1988.

18. Doris M. Meissner and Demetrios G. Papademetriou,"The Legalization Countdown: A Third Quarter Assessment," The Carnegie Endowment for International Peace, February, 1988, pps. viii, 13-14.

19. United States Catholic Conference, letter to Raymond Penn, Assistant Legalization Commissioner of the Immigration and Naturalization Service, December 16, 1988 (on behalf of the Ad Hoc Coalition on Implementation of Legalization).

20. Los Angeles County Federation of Labor, Immigrant Assistance Project, Letter to Bill Honig, Superintendent of Public Education, California Department of Education, June 21, 1988, p. 4.

21. National Immigration, Refugee and Citizenship Forum, The IRCA Clearinghouse Advisor, "Community groups struggle with SLIAG," January/February, 1989, Vol II, No. 3, p. 2.

APPENDIX A

FIGURE 1
TIME LINE FOR IMMIGRANT APPLICATIONS AND ADJUSTMENTS

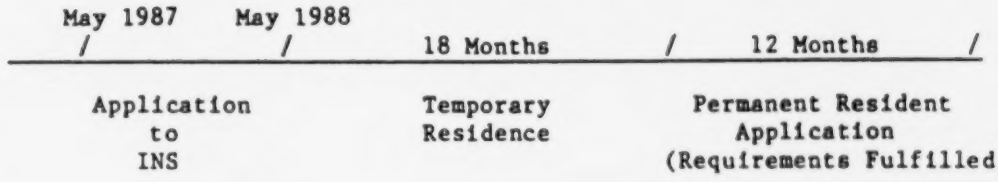


FIGURE 2
"WINDOW" FOR LEGALIZATION SERVICES IN RELATION TO APPLICATION

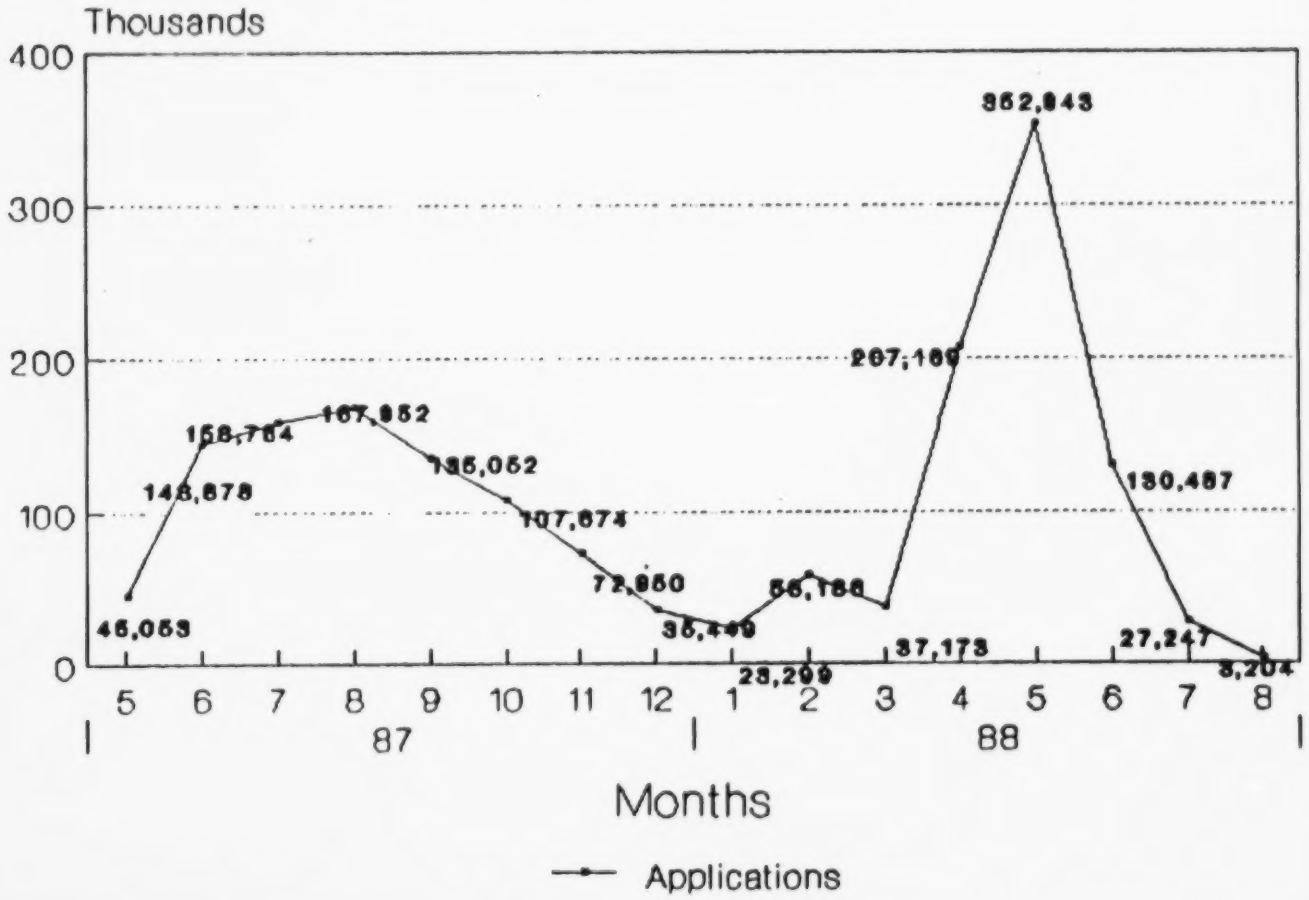
Column I — The month when the application was filed with the INS and the INS fee was paid (The filing date marks the beginning of the 18-month temporary residence period).

Column II — The one-year period in which the applicant must adjust her/her status to permanent resident (The application period ends 30 months after the filing date).

I Temporary Residence Began	II "Window" for Second-Stage Services
May 1987	11/88 - 11/89
June 1987	12/88 - 12/89
July 1987	1/89 - 1/90
August 1987	2/89 - 2/90
September 1987	3/89 - 3/90
October 1987	4/89 - 4/90
November 1987	5/89 - 5/90
December 1987	6/89 - 6/90
January 1988	7/89 - 7/90
February 1988	8/89 - 8/90
March 1988	9/89 - 9/90
April 1988	10/89 - 10/90
May 1988	11/89 - 11/90

Applications to Legalization Program

I-687's Only; May 1987 - August 1988



Figures 6/88-8/88 due to INS Processing

FIGURE 3

APPENDIX B

EXEMPTIONS FROM ESL/CIVICS COURSES

A. Age and Residency

The INS exempts "individuals over 50 years of age who have been living in the United States for at least 20 years" (See Endnote 3). 1980 Census data regarding undocumented immigrants and their profile information regarding age and period of entry are the basis for this analysis.

The question to be answered concerns the number of immigrants that are at least 50 years old in 1989 and have also lived in the United States for 20 years. The Census gives a total figure for each 10-year time span. In order to obtain an estimate of the yearly growth, the total figure is averaged across the ten fiscal years covered in the total. Furthermore, Census data group the age categories in 10-year intervals (See Figure 1, below). To obtain an estimate of the number of entrants for each age year, it is necessary to take an average of the yearly total.

FIGURE 1
1980 CENSUS DATA - IMMIGRANT AGE AND YEAR OF ENTRY

Entered 1960 -1969	Number in Thousands (rounded)
All Ages	570
Under 5 years	Not Available
5 - 14 years	28
15 - 24 years	109
25 - 34 years	186
35 - 44 years	176
45 - 64 years	67
65 years and over	3

Source: U.S. Department of the Census, "Estimates of Illegal Aliens from Mexico Counted in the 1980 United States Census," R. Warren and J.S. Passel, 1983. (N.B. The numbers in this figure include immigrants from all countries worldwide, not only Mexico.)

For example, Census data indicate 176,000 entrants for the 35- to 44-year-old category. To obtain an average growth for each fiscal year, the total number must be averaged across the ten years covered in the section 1960-1969 (176,000 ÷ 10 years = an average of 17,600 entrants per fiscal year). In order to obtain the number of people who entered for each age group, this number must be divided among the 10 age years covered in the category (17,600 ÷ 10 ages [35 to 44] = 1,760 entrants per age year, per fiscal year; e.g., 1,760 35-year-old undocumented persons entered the United States in each of the fiscal years 1960 through 1969). In spite of the limitation that this is a system based on the average number of immigrants per year, it can provide valuable information for determining the number of people who have lived in the U.S. for over 20 years and are also over 50 years of age. The total figure is calculated into the ESL/civics demand equation (See Figure 2).

In order to meet the residency requirement provided in the regulation, immigrants must have arrived in the U.S. prior to 1968. Therefore, relevant Census data on immigrants who would be at least 50 years old in 1989 are analyzed. For example, this population would have to have been between the ages of 22 and 37 in 1960 and between 30 and 44 in 1968 in order to be over 50 years of age in 1989. Only the most likely age categories to remain in the U.S. for 20 years or more are included in this sample. (Even though as many as 70,000 more immigrants could be included in this equation through their age categories [45 - 65+ years old], they are omitted because the likelihood of their remaining in the U.S. for 20 years and applying for legalization is small).

FIGURE 2

UNDOCUMENTED IMMIGRANTS - ENTRY BY YEAR AND AGE GROUP

Age	Year 1968	Age	Year 1967	Age	Year 1966	Age	Year 1965	Age	Year 1964
(30-34)	9,300	(29-34)	11,160	(28-34)	13,020	(27-34)	14,880	(26-34)	16,740
(35-44)	17,600	(35-44)	17,600	(35-43)	15,840	(35-42)	14,080	(35-41)	12,320
TOTAL	26,900		26,760		28,860		28.960		28,060

Age	Year 1963	Age	Year 1962	Age	Year 1961	Age	Year 1960
		(24)	1,900	(23-24)	3,800	(22-24)	5,700
(25-34)	18,600	(25-34)	18,600	(25-34)	18,600	(25-34)	18,600
(35-40)	10,560	(35-39)	8,800	(35-38)	7,040	(35-37)	5,280
TOTAL	29,160		29,300		29,440		29,580

Total persons over 50 years old and 20+ year residency in 1989 = 260,020

The total number of people who arrived in the United States prior to 1968 and who are also over 50 years old in 1988 is approximately 260,000 as shown in Figure 2. Given the probability that some of these people have returned to their native country, or have adjusted their status through other means, or have difficulty in proving continuous residency in the U.S. due to travel between the U.S. and their native country, or have died in the past eight years (Census figures are from 1980), or did not apply for legalization, the total figure is divided in half ($260,000 \div 2 = 130,000$) and entered into the ESL demand equation as the closest percentage of the total (which is 9% or 132,583). The ESL/civics demand is assumed to be reduced by 132,583 because these people are exempt from the requirement by age and residency requirements. Again, the 132,583 figure is an educated guess given Census figures and extrapolation regarding possibilities of adjustment for that population (See Figure 1).

B. **Education Exemption**

The INS has also exempted anyone who has completed at least one year of school in the U.S. from the ESL/civics requirement. Immigrants under 16 years of age in 1989 are excluded from the requirement; therefore, the population to consider is between the ages of 16 and 21 in 1989 (21 years is used as a maximum age because it is assumed that not many over that age in 1989 are likely to have completed one year of school). The obvious question, then, is how many immigrants are likely to have completed at least one year of school in the U.S.? It is necessary to begin by analyzing Census data from 1975 to 1982, which is the cut-off date for residence according to IRCA's legalization eligibility requirements.

FIGURE 3
1980 CENSUS DATA - IMMIGRANT AGE AND YEAR OF ENTRY

Entered 1975 - 1980	Number in Thousands (rounded)
All Ages	890
Under 5 years	101
5 - 14 years	160
15 - 24 years	347
25 - 34 years	200
35 - 44 years	41
45 - 64 years	30
65 years and over	11

Source: U.S. Bureau of the Census, "Estimates of Illegal Aliens From Mexico Counted in the 1980 United States Census," R. Warren and J.S. Passel 1983.(N.B.: The numbers in this figure include immigrants from all countries worldwide, not only Mexico.)

Immigrants who entered the country in 1975 would have been in the country for 14 years in 1989. It is safe to estimate that children entering the U.S. from 2-7 years of age in 1975 (16-21 years old in 1989 at the time of their evaluation by the INS), would have completed at least one year of school.

Census data are used to obtain the total number of children who arrived in the U.S. between 1975 and 1982 who are between the ages of 16 and 21 in 1989. 1980 census figures reflect 1979 to 1980 growth, therefore, in order to obtain 1980 and 1981 yearly growth, annual growth (approx. 200,000 in 1980 and 150,000 for three-fourths of the year 1981), is used as the basis for 1981 and 1982 totals. According to general INS statistics, approximately 9% of this total enters the U.S. in these age categories (9 - 14). The number of entrants per fiscal year is derived by averaging the five-year total for each fiscal year included in the section (e.g., the Under 5 category - 101,000 ÷ 6 years [1975-1980] = 16,800 entrants per fiscal year). Next, in order to obtain the number of entrants for each age group per year, this number must be averaged across the ages that are covered in that section (e.g. 16,800 ÷ 4 age years = 4,200 entrants per age year, per fiscal year). This same procedure is applied to the remaining categories to obtain the total number of immigrants who are likely to have

completed at least one year of school. Figure 4 shows the detailed method used to arrive at the total number of students who are likely to have completed at least one year of education in the United States.

FIGURE 4
APPLICANTS BETWEEN THE AGES OF 16 - 21 IN 1989
WHO ARE LIKELY TO HAVE COMPLETED ONE YEAR OF EDUCATION IN THE U.S.

Year Entered	1975	1976	1977	1978	1979	1980	1981	1982
Years In U.S.- 1989	14	13	12	11	10	9	8	7
AGE								
2	4,200							
3	4,200	4,200						
4	4,200	4,200	4,200					
5	2,667	2,667	2,667	2,667				
6	2,667	2,667	2,667	2,667	2,667			
7	2,667	2,667	2,667	2,667	2,667	2,667		
8		2,667	2,667	2,667	2,667	2,667	3,000	
9			2,667	2,667	2,667	2,667	3,000	2,250
10				2,667	2,667	2,667	3,000	2,250
11					2,667	2,667	3,000	2,250
12						2,667	3,000	2,250
13							3,000	2,250
14								2,250

As shown in Figure 4, the total number of immigrants who are likely to have completed at least one year of school is approximately 137,000. This figure is calculated into the ESL/civics demand estimate as a percentage of the remaining applicant pool (which equals 10% or 134,056). This reduces overall demand because these people are exempt from ESL/civics requirements.